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U.S. Department of Justice

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March 30, 2022

By Hand Delivery

The Honorable Ann M. Donnelly
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

MISC 22-965

DONNELLY, J.

Re: In re Civil Investigative Demands EDNYCID-2021-37 and EDNYCID-2021-38

Dear Judge Donnelly:

The United States submits this letter motion in support of its unopposed application for an order directing the New York City Department of Mental Health and hygiene (“DOHMH”) and Housing and Preservation Development (“HPD”) to produce information in response to Civil Investigative Demands (“CID”) EDNYCID-2021-37 and EDNYCID-2021-38. A proposed Order is enclosed.

The United States Department of Housing and Urban Development (“HUD”) provides funding to certain owners and operators of housing in New York City. HUD promulgated the Lead-Safe Housing Rule, 24 C.F.R. Part 35, in furtherance of Title X of the Housing and Community and Development Act of 1992, to establish testing and evaluation procedures for all federally assisted housing where children and other persons at risk for lead poisoning reside. *See* 42 U.S.C. § 4852d. As a result, HUD places requirements on property owners receiving federal funding.

The United States is currently investigating the health and safety conditions in federally assisted housing in New York City, as well as potentially false claims related to such conditions that owners and operators of that housing made to the United States in possible violation of the False Claims Act. *See* 31 U.S.C. § 3729 *et seq.* Under the False Claims Act, the United States is authorized to issue CIDs to persons in possession of documentary material or information relevant to the false claims investigation. *See id.* § 3733.

On October 21, 2021, the United States issued a CID to DOHMH (EDNYCID-2021-37), and one CID to HPD (EDNYCID-2021-38), seeking, among other things, information and documents about individuals with elevated blood-lead levels in residences in New York City. A copy of the CIDs, EDNYCID-2021-37 and EDNYCID-2021-38, is enclosed. *See* Exhibits A and B.

DOHMH and HPD have cooperated with this Office in responding to the CIDs, but have

asserted that without a court order, Article 11 of the New York City Health Code and/or Section 18 of the New York State Public Health Law prevent DOHMH and HPD from producing certain materials responsive to EDNYCID-2021-37 and EDNYCID-2021-38 that reflect individuals' medical or individually identifiable information, patient information, and information from the New York City children's blood lead registry. DOHMH and HPD have agreed, however, to produce this information upon entry of the enclosed proposed court order and do not oppose the United States' application for such an order.

The information sought by EDNYCID-2021-37 and EDNYCID-2021-38 is relevant to the United States' investigation into whether owners and operators of federally assisted housing have made false claims for payment to the United States pertaining to health and safety conditions in federally funded housing. Production of the information is in the interest of justice. Accordingly, the United States respectfully requests that the Court endorse the enclosed order directing DOHMH and HPD to produce documents and information responsive to EDNYCID-2021-37 and EDNYCID-2021-38.

Thank you for Your Honor's consideration of this request.

Respectfully submitted,

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Enclosures

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